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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/501,600	02/10/2000	Yousuke Kouno	105398	4106

25944 7590 02/18/2004

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EXAMINER
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CHANG, AUDREY Y

ART UNIT	PAPER NUMBER
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2872

DATE MAILED: 02/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/501,600	Applicant(s) KOUNO, YOUSUKE	
	Examiner Audrey Y. Chang	Art Unit 2872	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2003.  
2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 2,8,10,12,13 and 15-19 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 2,8, 10,12,13 and 15-19 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Remark*

- This Office Action is in response to applicant's request for reconsideration filed on December 8, 2003.
- No amendments to the claims have been filed.
- Claims 2, 8, 10, 12, 13, and 15-19 remain pending in this application.

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 2, 8, 10, 12-13, and 15-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsuyuki et al (PN. 6,069,651) in view of the European Patent issued to Albert (EP0608169).**

**The reasons for rejection are set forth in the previous Office Action dated June 9, 2003.**

### *Response to Arguments*

3. Applicant's arguments filed on December 8, 2003 have been fully considered but they are not persuasive.
4. In response to applicant's arguments which state that the cited Albert reference does not teach the claimed invention in the instant application the examiner respectfully disagrees for the reasons stated below. Albert teaches explicitly to have optical filter having at least two filter layers (12, Figure 2), with the size of the first layer being smaller than the second filter layer, which therefore forms a stage at the surface of the second filter layer. The stage is formed by varying the size of the first filter layer along direction perpendicular to the optical axis, defined by (14, Figure 2). The stage also "faces forward said

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first filter layer and extends in the direction perpendicular to the optical axis”, (please see claims, 1, 13 and 17 of the instant application). Furthermore, as demonstrated by the teachings of Albert (reference to Figure 2), the circumferences of the filter layers are **abutted** against the body of the holder, which “have a size that is sufficient large so that” it will have the function of holding the optical filter implicitly in the holder. By applicant’s own admission, (remark page 2, line 5-7), “it does not matter whether the smaller optical member 12 is located at a specific side in Albert”, this means the smaller optical layer therefore can be placed at the optical system side. With regard to the spring property of the of the holder, the applicant certainly has the knowledge in the art knowing that either holding the filter by bolts, (which expresses biased pressure), or by using spring, (also based on biased pressure) DOES NOT contribute a **patentable** or novel feature in the art. These references, Tsuyuki et al in view of Albert, therefore read on the claims of the instant application.

5. Claim 8 has been rejected together with the rest of the claims. The paragraph in the previous Office Action:

*Tsuyuki et al also teaches that the filter unit (59 and 61) comprises a plurality of filter layers including a plurality of layers of quartz filter and infrared cut filter, (please see column 8). Tsuyuki et al further teaches that the filter layers in the filter unit (59, 61 or 10) may be laminated along the direction along the optical axis, (please see Figures 6 and 7).*

Has addressed in the nature concerning the paste of the filter layers.

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

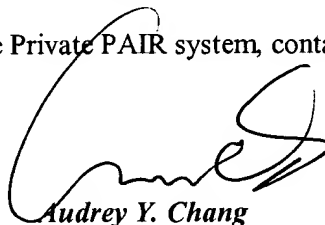
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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Audrey Y. Chang whose telephone number is 571-272-2309. The examiner can normally be reached on Monday-Friday (8:00-4:30), alternative Mondays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew Dunn can be reached on 571-272-2312. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



*Audrey Y. Chang*  
*Primary Examiner*  
*Art Unit 2872*

A. Chang, Ph.D.